


LDH ABUSE AND NEGLECT

	Louisiana Department of Health	
	Policy Number	76.3
	Content	Abuse and Neglect Policy and Procedures for LDH
	Effective Date	June 06, 2016
	Inquiries to	ADULT PROTECTIVE SERVICES Office of Aging and Adult Services P. O. Box 3528, Bin 11 Baton Rouge, LA 70821 PHONE: (225) 342-9062 FAX: (225) 342-9069

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

TABLE OF CONTENTS

I.	POLICY STATEMENT.....	PAGE 4
II.	PURPOSE.....	PAGE 4
III.	APPLICABILITY.....	PAGE 4
IV.	EFFECTIVE DATE..... ..	PAGE 4
V.	DEFINITIONS.....	PAGE 4-6
VI.	STATUTORY DEFINITIONS OF ABUSE.....	PAGE 6
VII.	EXAMPLES OF ABUSE.....	PAGE 7-9
VIII.	DUTY TO REPORT ABUSE.....	PAGE 10
IX.	PROCEDURES FOR REPORTING.....	PAGE 10
	A. Reporting within facilities/programs.....	PAGE 10
	B. Responsibility of facility/program managers.....	PAGE 11-12
	C. Reporting outside the facility/program.....	PAGE 12-13
X.	PROHIBITION AGAINST RETALIATORY ACTION.....	PAGE 13
XI.	COOPERATION IN INVESTIGATIONS.....	PAGE 13
XII.	CONFIDENTIALITY.....	PAGE 14
XIII.	CONSEQUENCES OF ABUSE/DISCIPLINARY ACTIONS....	PAGE 14-15
XIV.	STAFF TRAINING IN CLIENT ABUSE AND NEGLECT POLICY	
	PAGE 15
XV.	INVESTIGATIONS.....	PAGE 16

XVI. INVESTIGATIVE REVIEW RESPONSIBILITIES FOR 24 HR FACILITIES

A.	Client Rights Officer.....	PAGE 16-17
B.	Investigative Review Committee.....	PAGE 17-18
C.	Human Rights Committee Review.....	PAGE 19
D.	Duties of CEO/FA.....	PAGE 19-20
E.	Conducting the Investigation.....	PAGE 21-22
F.	Investigative Review Committee Hearing/Recommendation.....	PAGE 22-23
G.	Final Action by the CEO/FA.....	PAGE 23-24
H.	Record-Keeping and documentation of Client Abuse and Neglect	PAGE 24-25
I.	Review and Closure by the APS.....	PAGE 25
J.	Appeal of CEO/FA’s Findings.....	PAGE 25-26
K.	External Investigation.....	PAGE 26

XVII. ADULT PROTECTIVE SERVICES..... PAGE 27

XVIII. DISSEMINATION..... PAGE 28-29

XIX. DISCIPLINARY ACTION..... PAGE 29

XX. REVISION HISTORY..... PAGE 29

APPENDIX A: DEFINITIONS..... PAGE 30-34

APPENDIX B: Responding to Abuse/Neglect/Exploitation..... PAGE 35-36

**APPENDIX C: Time Frames for reporting, investigation and review
of Abuse/Neglect In 24-hour facilities..... PAGE 37**

I. POLICY STATEMENT

LDH is committed to preserving the right of each person receiving services to be free from abuse. All forms of abuse of clients by employees of LDH and its affiliates are prohibited. While definitions and examples of abuse are provided in this policy, it must be understood that all possible situations cannot be anticipated and each case must be evaluated based on the particular facts available.

II. PURPOSE

To establish a policy prohibiting abuse, neglect, exploitation, or extortion (hereafter termed “abuse”) of clients and to establish procedures for reporting, investigating, reviewing, and resolving alleged incidents of abuse.

III. APPLICABILITY

This policy applies to all employees of LDH and its affiliates and to all persons receiving services from LDH and its affiliates.

IV. EFFECTIVE DATE

The effective date of this policy is June 30, 2011. This policy supersedes the former LDH Policy # 0029-03 issued December 13, 2003, and revised in 2011.

V. DEFINITIONS

- A. **Accused** – the person accused of abuse, neglect, exploitation, or extortion of a client.
- B. **Affiliate** – any school, organization, or entity associated by interagency agreement in a working alliance with LDH programs and facilities providing direct client services. This includes organizations providing volunteer services, students, or contract services.
- C. **Adult Protective Services (APS)** – a Division in the Office of Aging and Adult Services responsible for developing and implementing a system of reporting, investigating, reviewing, and monitoring client related incidents, including assessment and follow-up, to safeguard the rights of the client.
- D. **Chief Executive Officer/Facility Administrator (CEO/FA)** – the individual responsible for the management of a LDH 24-hour facility and its subsidiaries.
- E. **Client** – any person receiving services from LDH or an affiliate of LDH.

- F. **Client Rights Officer (CRO)** – The designated staff person responsible for the protection of client rights in LDH 24-hour facilities.
- G. **Complainant** – person reporting possibility of client abuse; also known as reporter.
- H. **Corrective Action Plan** – the preventive and/or corrective action steps to be taken to address deficiencies or problems that are identified during review or investigation of abuse/neglect incidents.
- I. **Criminal Act** – any act which violates the Louisiana Criminal Code (R.S. 15). Examples include, but are not limited to, homicide, rape, public lewdness, battery (R.S. 14:35), criminal neglect, cruelty to the infirm (R.S. 14:93.3), exploitation of the infirm, sexual battery of the infirm (R.S. 14:93.5).
- J. **Designee** – A staff member who is delegated authority by program office or facility policy to fulfill certain duties and responsibilities of the facility/program manager.
- K. **Facility/Program** – any organizational unit operated by LDH or its affiliates providing services to clients. Examples include, but are not limited to, hospitals, clinics, Support and Services Centers, health units, and direct service components of program offices and bureaus.
- L. **Human Rights Committee (HRC)** – a facility committee having multiple functions, one of which, pursuant to this policy, is to provide oversight of the abuse/neglect process. Facilities not otherwise required by law, regulation, or policy to have a Human Rights Committee are not required to establish one for purposes of this policy.
- M. **Investigative Review Committee (IRC)** - A committee appointed by the CEO/FA under whose auspices the investigative review process is conducted.
- N. **Investigator** – an APS staff person designated and approved to conduct investigations of client abuse.
- O. **Manager** – the person responsible for the management of an individual LDH program or facility and its affiliates. For purposes of this policy, this may include but is not limited to CEO/FAs of 24-hour facilities, clinic managers, unit managers, program managers, and regional managers.

- P. **Not substantiated** – a determination based on the evidence that there is reasonable cause to believe that an alleged incident was not in violation of the abuse policy and/or not attributable to the accused.
- Q. **Online Incident Tracking System (OTIS)** – an online database used for reporting of abuse, neglect, sensitive situations, or other mandatory reports.
- R. **Preponderance of Evidence** – greater weight of evidence that is more credible and convincing, that which best accords with reason and probability and more likely to be true.
- S. **Reporter** – person reporting possibility of client abuse. Also known as complainant.
- T. **Staff** – employees of LDH facilities and affiliates.
- U. **Substantiated** – the determination based on the evidence that there is a reasonable cause to believe that conduct in violation of the abuse policy occurred, and where applicable, whether such conduct is attributable to the accused.
- V. **Unable to verify** – the determination that the available evidence does not support a final decision that there was a reasonable cause to believe that abuse either did or did not occur.
-

VI. STATUTORY DEFINITIONS OF ABUSE

- A. Definitions of abuse, neglect, exploitation, and extortion are found in the state and federal laws and regulations cited below. These definitions apply to different client populations and/or in different settings. The text of these definitions is included as Appendix A of this policy. It is the responsibility of each program office and/or facility within LDH to include in its internal policy and procedures those definitions which apply to the clients they serve and the settings in which services are delivered and to ensure that its employees and affiliates are trained in those definitions.
1. Louisiana Revised Statutes 15.1503 Adult Protective Services Law. These definitions apply to any person ages 18-59 (or an emancipated minor) who, due to a physical, mental, or developmental disability or the infirmities of aging, is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect, or exploitation. They apply in any setting.

2. Louisiana Revised Statutes 40:2009:20. These definitions apply to any person residing in a facility or receiving services from a provider licensed by the Health Standards Section of the LDH Bureau of Health Services Financing. This includes, but is not limited to clients residing in a licensed ICF-DD, a licensed nursing home, a licensed hospital, or other licensed health facility as defined in LA RS 40:2009.13.
3. Code of Federal Regulations 45 CFR 1386.19 (State System for Protection Advocacy of the Rights of Individuals with Developmental Disabilities) and 42 CFR 51.2 These definitions are contained in the Federal Regulations establishing protective and advocacy programs and apply to the facilities serving the developmentally disabled and the mentally ill, respectively.
4. Code of Federal Regulations 42 CFR 488.301. These definitions apply to long-term care facilities participating in the Medicaid and/or Medicare programs.
5. Louisiana Children's Code Article 603. These definitions apply to all persons under age 18 (except emancipated minors) regardless of setting.

VII. EXAMPLES OF ABUSE

- A. Listed below are examples of the type of conduct which constitutes abuse. This list of examples is not exhaustive and represents general categories of prohibited conduct. Conduct of a like or similar nature is also prohibited. Examples include, but are not limited to:
 1. **Physical Abuse:** Physical contact such as hitting, slapping, pinching, kicking, choking, scratching, pushing, twisting of head, arms or legs, tripping; the use of physical force which is unnecessary or excessive; and inappropriate or unauthorized use of restraint.
 2. **Verbal/Emotional/Psychological Abuse:** Verbal conduct may be abusive because of either the manner of communication or the content of the communication. Examples include yelling, cursing, ridiculing, harassment, coercion, threats, intimidation, and other communication which is derogatory or disrespectful. Non-verbal communication, such as gestures, that have the same effect may be considered emotional or psychological abuse.

3. **Sexual Abuse:**

- a. Any sexual activity between a client and an employee.
- b. Sexual activity includes but is not limited to kissing, hugging, and stroking.
- c. Fondling with sexual intent.
- d. Failure to discourage sexual advances toward employees by clients.
- e. Permitting the sexual exploitation of clients or the use of client sexual activity for staff entertainment or other improper purpose;
- f. Any sexual activity where the client is forced, threatened, or otherwise coerced by a person into sexual activity or contact.
- g. Any sexual situation where the client is involuntarily exposed to sexually explicit language or sexual activity or contact.
- h. Any sexual situation between a client and another person when the client lacks the capacity to consent and is engaged in sexual activity or contact by a person.

4. **Exploitation:** Includes using the client and/or the resources of the client for monetary or personal benefit, profit, gain, or gratification. This includes forcing or encouraging a client to do anything illegal. Some examples include taking money or other personal property from a client for one's own use, disposing of assets belonging to a client for personal gain, forcing a client to perform tasks that are not part of a treatment plan.

5. **Extortion:** Attempting to acquire or acquiring something of value from a client or a client's family by physical force, intimidation, or abuse of official authority. Examples include coercing a client to give up something of value or soliciting payment from a client or family by threatening the client harm.

6. **Neglect:** Acts or omissions by a person responsible for providing care of treatment which caused harm to a client, which placed the client at risk of harm, or which deprived a client of sufficient or appropriate services, treatment or basic care. Failure to provide appropriate services, treatment, or care by gross errors in judgment, inattention, or ignoring may also be considered a form of neglect. Examples include, but are not limited to:

- a. Failure to establish and carry out an appropriate program or treatment plan;
 - b. Failure to provide, or withholding of, adequate nutrition, clothing, or health care;
 - c. Failure to provide a safe environment;
 - d. Failure to provide or obtain needed medical treatment;
 - e. Failure to supervise a client such that the client is placed in danger.
7. **Self-neglect:** Includes situations where clients living in the community are unable to access services or treatment and/or are non-compliant with services or treatment due to their condition, or are unable to care for themselves and have no available or responsible caregiver.
- B. It is not the intent of this policy that every potentially harmful incident involving a client be reported as abuse. Such incidents shall be recorded and/or reported in accordance with the appropriate laws, regulations, and policies applicable to each facility/program. Examples of such incidents include, but are not limited to:
- 1. Actions that an employee reasonably may believe to be necessary to avoid imminent harm to self, clients, or other persons provided the actions are limited only to those reasonable necessary under the existing circumstances. However, when excessively severe force or methods of control are used, or when actions are carried beyond what is necessary to protect the client or other persons from harm, that conduct is considered abuse.
 - 2. The proper use of restraint and seclusion, including crisis intervention techniques such as Crisis Prevention and Supportive Intervention (CPSI), in accordance with applicable laws, regulations, and policies.
 - 3. Accidents which, based upon the facts, are clearly not attributable to abuse or neglect.
 - 4. Behavioral incidents which are appropriately documented and responded to as part of the client's treatment, provided there is no evidence that abuse or neglect contributed to the behavior.

VIII. DUTY TO REPORT ABUSE

- A. Louisiana law mandates reporting of abuse. It provides that persons who report in good faith have immunity from liability (unless they are themselves involved in the abuse). The following are violations of the law and subject to criminal penalties:
1. Failure to report
 2. Making a false report
 3. Retaliating against anyone making a report
 4. Interfering with anyone making a report
 5. Interfering with an investigation
- B. Any employee of LDH or an affiliate who has knowledge of possible abuse of a client, or who receives a complaint of abuse from a client or any other person, shall report in accordance with the provisions of this policy, applicable law, and the facility or program office's internal policy and procedures. If the person making the complaint is not an employee, e.g. a client, family member, visitor, etc. LDH staff shall assist the person in making a report, if necessary.

IX. PROCEDURES FOR REPORTING

- A. Reporting within facilities/programs: Any employee of LDH or an affiliate who has knowledge of possible abuse shall report as follows:
1. To the Facility CEO/FA or Program Manager or Designee: Immediately, if at all possible, but in no case later than one hour after knowledge or suspicion, make the verbal report to the facility/program manager. A follow up written incident report shall be submitted to the facility CEO/FA or program manager or designee as soon as possible, but no later than two hours after the verbal report.

If the allegation is against the Facility CEO/FA, the report shall be made to the appropriate program office Assistant Secretary or designee. If an allegation is against a facility/program manager in the Office of Aging and Adult Services, the LDH Deputy Secretary will receive the report and will be

responsible for carrying out the responsibilities of the facility/program manager outlined in this policy.

2. Immediately take appropriate measures to protect the safety and well-being of the client(s) involved. This may include such actions as removing client(s) from danger, seeking medical attention, or notifying external agencies as outlines in Section IX.C. of this policy.
3. Preserve and protect any evidence related to the allegation in accordance with internal policy and procedure and/or instructions from the facility/program manager or designee and/or from an investigator.
4. If unable to report to the Facility CEO/FA or Program Manager (or designee), report immediately face to face or by phone to one's supervisor, or if not available, to any supervisor, or
5. If unable to report face to face or by phone to Supervisor or any Supervisor, Report immediately by phone or face to face to the Facility, or Client Rights Officer.
6. If unable to report face to face or by phone to the Client Rights Officer, report immediately to any APS Investigator or APS Supervisor, or
7. If unable to report face to face or by phone to the APS Investigator or APS Supervisor, immediately call the APS STATEWIDE HOTLINE AT 1-800-898-4910.

The most important and critical action is to report immediately to one of the sources noted above.

- B. Responsibility of facility/program managers: Upon receiving a report of abuse, facility/program managers or their designees shall:
1. Insure that any client(s) involved is removed from a hazard or danger and receives appropriate care and/or medical treatment.
 2. When the allegation involves staff, contact the supervisor of the staff involved (LDH or affiliate) and assure initiation of administrative action to ensure the protection of the client(s). This may include, but is not limited to, removal of staff in accordance with Civil Service Rules or removal of clients.

3. Notify the administrative official of the affiliate when an allegation involves staff of an affiliate.
4. Insure that evidence is safeguarded and preserved prior to an investigator's (or external agency's) arrival.
5. Separate the accused from any witnesses involved in an incident of abuse.
6. Provide necessary input to an investigator or external agency.
7. Ensure that all reporting requirements are followed.
8. Notify local law enforcement if there is reason to believe that the incident involves a criminal act.

C. Reporting outside the facility/program:

All incidents of possible abuse involving LDH clients as alleged victims and/or LDH or affiliate staff as the accused shall be reported immediately to APS. APS may develop specific reporting procedures for individual facilities/programs within LDH.

In addition, State and Federal laws and regulations mandate reporting to the following agencies, based upon the age of the alleged victim, setting, and identity of the alleged abuser. These laws place the burden to report on the individual having knowledge or suspicion of the abuse. For purposes of this LDH policy, it is the responsibility of the facility/program manager to ensure that the appropriate external agencies listed below are notified in a timely manner. A matrix summarizing reporting responsibilities for various populations is attached as Appendix B of this policy.

1. The local Children & Family Services (DCFS) Service office for all allegations involving persons under 18 years of age, regardless of setting, where the accused is a formal or informal caregiver. Allegations of child abuse where the abuser is not a caregiver should be reported to local law enforcement. Reports should be made immediately or as soon as possible after knowledge.
2. The Health Standards Section of the LDH Bureau of Health Services Financing for allegations involving persons who are receiving care in a

facility licensed by that Section. This would include: persons residing in a licensed ICF-DD, a licensed nursing home, a licensed hospital, and other licensed healthcare facility as defined in LA RS 40.2009.13. Reports should be made immediately or as soon as possible, but in no case later than 24 hours after knowledge.

3. The LDH/OAAS Adult Protective Services Program for allegations involving persons age 18-and older, or emancipated minors who are mentally, physically, or developmentally disabled when the person resides in a non-licensed setting or when a person residing in a licensed setting is allegedly abused by an accused who is not a staff member of the licensed facility. Reports should be made immediately or as soon as possible after knowledge.
4. The Department of Children & Family Services (DCFS) licensing section for all allegations where the accused is a staff person of a provider licensed by same. DCFS has two licensing classifications (a) Child Day Care Centers & (b) Residential Care and Special Population Centers. Reports should be made immediately or as soon as possible after knowledge.

X. PROHIBITION AGAINST RETALIATORY ACTION

No person who makes an allegation of abuse or neglect in good faith, or who gives information regarding such an allegation, shall be subject to retaliatory action. Any person who is subjected to retaliatory action upon making a report of client abuse or neglect shall immediately report the same situation to any of the following:

1. Facility CEO/FA or program manager
2. The Program Office Assistant Secretary
3. Adult Protective Services (1-800-898-4910)

XI. COOPERATION IN INVESTIGATIONS

All employees of LDH and its affiliates are required to cooperate in any investigation of abuse. This includes, but is not limited to, being available for interview, responding to the questions from the Investigator, and providing a written statement to the Investigator.

XII. CONFIDENTIALITY

- A. All client information regarding allegations and/or investigations of abuse, neglect, exploitation, or extortion is confidential. Such information may be shared as needed with LDH personnel and with supervisory or management personnel as specified in this policy. Outside investigating agencies may obtain information as provided by law.
- B. Discussion of incidents of abuse, neglect, exploitation, or extortion other than as indicated in Section XII. A. is prohibited.

XIII. CONSEQUENCES OF ABUSE AND DISCIPLINARY ACTIONS

- A. Violation of this policy will be grounds for disciplinary action, up to and including termination. Violations include but are not limited to:
 - 1. Committing abuse, neglect, exploitation, or extortion;
 - 2. Failing to report an alleged incident of abuse;
 - 3. Failing to report an alleged incident of abuse within specified time frames;
 - 4. Refusing to cooperate in an investigation or giving untruthful information during an investigation; or interfering with an investigation.
- B. Disciplinary action should be administered by the appropriate appointing authority in accordance with LDH Policy #30.1 and Civil Service Rules. When the appointing authority anticipates that disciplinary action may be warranted for violation of this policy, he/she shall notify the LDH Bureau of Legal Services.
- C. The expectation is that a staff member confirmed to have physically abused a client will be terminated from his/her employment. Any variance from this expectation requires a detailed justification by the facility/program administrator and approval by the office's Assistant Secretary.
- D. The expectation is that a staff member confirmed to have failed to report physical abuse of a client will be terminated from his/her employment. Any variance from this expectation requires a detailed justification by the facility/program administrator and approval by the office's Assistant Secretary.

E. Abuse, neglect, exploitation, or extortion may also constitute a criminal offense and be grounds for criminal prosecution.

F. Any employee of an affiliate found in violation of this policy may be excluded from the facility/program.

XIV. STAFF TRAINING IN CLIENT ABUSE AND NEGLECT POLICY

A. This policy shall be thoroughly and periodically explained to all employees and agents of LDH as follows:

1. All new employees and agents of LDH and affiliates who have direct contact with clients and/or who work in direct care facilities/programs shall be trained on all aspects of this policy. An acknowledgement of receiving these instructions shall be certified by the employee and maintained on file at the facility.
2. As soon as possible, but within 60 days after the distribution date of this policy, the Assistant Secretaries shall ensure that facility or program office policy meets the criteria established in the policy, and that staff who have contact with clients and/or who work in direct care facilities/programs have received instruction on the content of the policy. Acknowledgment of the full training shall be certified and maintained on file at the facility/program.
3. The Assistant Secretaries shall have a continuing responsibility to ensure that appropriate staff are currently informed of rules governing client abuse and neglect, and shall insure that each staff member receives training in the content of this policy not less than once each calendar year and more frequently if needed. Such training shall be documented and maintained on file at the facility.

B. A record shall be maintained by the program office for each employee receiving orientation, annual training, or any other training required by this policy. This record shall, at a minimum, include the date that the training was provided, the name and classification of the individual conducting the training, the course title, and the number of hours of instruction received.

XV. INVESTIGATIONS

- A. The agencies identified in Section IX.C. of this policy as receiving external reports also have statutory or regulatory responsibility for investigating those reports and taking protective and/or regulatory action. Those agencies which are part of LDH shall carry out these functions as authorized by statute or regulation and according to their internal policies and procedures.
- B. In addition to those investigations outlined in Section XV.A., allegations of abuse involving LDH clients where the accused is an employee of LDH or an affiliate will be investigated by Adult Protective Services. LDH office which operates 24-hour facilities shall conduct investigative reviews (by IRC) and initiate appropriate corrective action for all reported allegations of abuse. Procedures for this process are summarized in Appendix C.
- C. Should any allegations arise involving LDH clients which do not clearly fall under the jurisdiction of any agency identified in Section IX.C., the allegation may be investigated by Adult Protective Services.

XVI. INVESTIGATIVE REVIEW PROCESS FOR 24-HOUR FACILITIES

A. Client Rights Officer

At all 24-hour facilities there shall be a designated Client Rights Officer (CRO). In cases where it is determined that a full-time position is not warranted, the client rights function shall be primary responsibility of the designated employee, and shall take precedence over all other assignments. The person designated as CRO shall be trained in the duties of the job by APS. The function of this job as it relates to this policy includes:

1. Assuring that clients (and where applicable, family, or other responsible parties) are informed of the abuse/neglect policy and procedures;
2. Assessing all client related incidents and complaints for indications of abuse/neglect;
3. Advising the CEO/FA of any client-related incident, occurrence, or complaint having indication that it should be reported as an abuse/neglect incident;

4. Assisting the client and/or, where applicable, family/client representative in hearings and appeals of findings in abuse/neglect cases;
5. Reviewing and assessing the Investigative Review Committee findings, and advising the CEO/FA of any identified concerns;
6. Monitoring trends and patterns of reported incidents, notifying the CEO/FA of problem areas and need for attention to those areas; and,
7. Monitoring for implementation of administrative and/or programmatic mandates to ensure the safety and well-being of clients.

B. INVESTIGATIVE REVIEW COMMITTEE

1. Unless this requirement is waived by the Secretary, each 24-hour facility shall have available an Investigative Review Committee (IRC). Any request for a waiver shall include an alternative mechanism for conducting investigative reviews and implementing corrective action. IRC's may be organized on a facility, multi-facility, regional, or program office basis. The IRC, a multi-disciplinary committee, shall be appointed by the CEO/FA or, in the case of a regional or program office committee, by the Assistant Secretary or designee. The IRC is the principal entity charged with receiving, assessing, and evaluating investigative data in abuse/neglect allegations, from which recommendations are made to the CEO/FA. Where applicable, this committee shall collect any additional data that is necessary to assist it in evaluating the incident.
2. The term of membership shall be one year. Members may be reappointed for more than one term, but rotation of members is strongly recommended. It is also recommended that terms be staggered so that some experienced members are on the committee at all times.
3. Each committee shall determine the number of committee members and alternate committee members necessary to ensure that:
 - a. Incidents are processed within established time lines ;
 - b. A minimum of three members is present at every meeting, and one of these members shall be either a:

- i. Client;
- ii. Former client;
- iii. Parent or client representative; or,
- iv. Person not connected with the facility.

Should a committee member be directly associated with the accused or the victim in an allegation, that member shall recuse himself/herself from participating in the hearing.

- 4. Employees who have a direct responsibility to represent either the client or management shall not serve as voting members of the committee. Examples include, but are not limited to: facility administrator, clinical or program director, unit directors where the incident occurred; human resource directors; client rights officers; or advocacy representatives.
- 5. When an allegation of abuse or neglect involves an employee of an affiliate, one member of the committee shall be a representative of that agency.
- 6. A chairperson shall be selected by the CEO/FA or, in the case of a regional or program office committee, by the Assistant Secretary or designee. Alternate chairpersons may be selected by the committee members.
- 7. The committee members shall be trained by Adult Protective Services in:
 - a. The LDH and facility abuse/neglect policy;
 - b. Collecting, reviewing, and evaluating evidence; and,
 - c. Responsibilities and requirements of an IRC member.
- 8. The committee shall assess and evaluate all evidence and recommend to the CEO/FA (or the affected Assistant Secretary/Deputy Secretary when an allegation involves the CEO/FA) whether the allegation(s) of abuse or neglect should be found substantiated, not substantiated, or unable to verify.
- 9. The committee shall make recommendations, when warranted, for corrective action.

C. Human Rights Committee Review

1. In facilities which operate a Human Rights Committee (HRC), the HRC chairperson shall immediately be notified of all allegations of abuse and/or neglect.
2. The HRC committee shall:
 - a. Assess and evaluate all abuse/neglect data to detect trends and patterns as well as outcomes of corrective and/or preventive actions;
 - b. Make recommendations to the CEO/FA for corrective and/or preventative actions based on pattern/trend analysis;
 - c. Recommend investigations by proper authorities when there is suspicion the client population is at risk; and,
 - d. Make recommendations to CEO/FA for procedural and/or environmental changes when evidence indicates policy, procedures, and/or environmental factors are potentially harmful to clients.

D. Duties of CEO/FA

1. In addition to the duties outlined in Section IX.B. of this policy, the CEO/FA or designee shall take the following action upon receipt of an allegation of abuse:
 - a. Immediately notify Adult Protective Services of the allegation and of any administrative action that has been ordered so that an investigation may begin. Specific procedures for notification and assignment of investigators shall be developed by Adult Protective Services.
 - b. Notify the IRC Chairperson or designee, the HRC Chairperson, and the Client Rights Officer. If the allegation is received after regular business hours, notice to these persons shall be made at the beginning of the next regular work day.
 - c. Report the allegation using the Online Incident Tracking System (OTIS). Such reports shall be made within 24 hours (if a report is received after regular business hours, or on a holiday or weekend, the report shall be

made at the beginning of the next regular work day), except in the case of the priority incidents listed below, which shall be made immediately:

- i. Any major injury or death alleged to be the result of abuse.
 - ii. Major injuries are those injuries that require emergency care followed by more definitive medical care by a physician such as medication, intravenous fluids, sutures, surgery, and/or other medical procedures necessary to maintain and restore the individual. Examples include, but are not limited, to fractures and dislocation of any joint, concussion, contusions, internal injury, burns, or lacerations requiring sutures;
 - iii. Any allegation of sexual abuse; or
 - iv. Any allegation of abuse which in the judgment of the CEO/FA is sufficiently sensitive to warrant immediate reporting; or
 - v. Any allegation involving abuse where the alleged abuser is not facility staff.
- d. Immediately, but no later than 24 hours from time of report of incident, make every possible effort to notify parents/guardians/family (person listed in client's record who is to be notified in case of emergency). Such notifications will be made unless specifically prohibited by law or by LDH policy relating to confidentiality, or when the alleged abuse occurred outside the facility and the parents/guardians/family are potential accused or witnesses. When unable to notify by telephone, written notice shall be sent to the last known address.
- e. Ensure that the client(s) is protected from abuse during the investigation, and that appropriate action is taken for on-going protection based on the investigative findings.
- f. Notify any other applicable agencies as required by Section IX.C. of this policy.
2. If an allegation is against a facility/program manager, the appropriate program office Assistant Secretary or designee, or in the case of the Office of Aging and Adult Services the LDH Deputy Secretary, will be responsible for

carrying out the responsibilities of the facility/program manager outlined in this section.

E. Conducting the Investigation

1. All allegations of abuse will be investigated by a designated investigator who has been trained and certified by APS to conduct investigations. The investigator shall begin the investigation immediately, but in no case more than three hours after notification by the CEO/FA of the report.
2. The investigator shall begin the investigation by determining that all measures, as directed by the CEO/FA or designee, have been taken to ensure the protection and well-being of the client(s) involved. Any concern about the clients' safety shall be immediately reported to the investigator's supervisor and the CEO/FA.
3. If the facility is required by law or regulation to report to Health Standards, the APS investigator shall gather and analyze all available facts, and submit all available statements of witnesses and evidence in a preliminary written report to the CRO, the HRC Chairperson (if applicable), the CEO/FA and the BPS. The preliminary report must be completed within five working days from the date the incident was reported. The CRO, HRC Chairperson (if applicable), and CEO/FA shall determine a preliminary finding to report to Health Standards. Once the investigation and review process outlined herein is complete, Health Standards shall be notified of the final outcome.
4. The investigator shall gather and analyze all available facts, and submit all available statements of witnesses and evidence in a complete investigative report, which shall be submitted to the IRC Chairperson, HRC Chairperson, CEO/FA, Client Rights Officer, and APS within ten working days from the date the incident was reported.
5. Where extenuating circumstances exist that require additional time to complete the final report, APS may grant one extension not to exceed five working days. Any other extension must be granted by the APS Director. Investigative reports regarding abuse and neglect at 24-hour facilities shall be reviewed by the Bureau of Legal Services. At the earliest possible time after the written investigative report has been completed, the report should

be faxed to the appropriate Regional Attorney for review. The Regional Attorney will review it and within 48 hours submit recommendations, if any to the Investigative Review Committee (IRC) and the APS, regarding additional information, additional witnesses or any other advice necessary to complete the report. The submission of the written report to Regional Attorney does not change or extend any deadline or time frame currently in place and required by this policy or any other governing agency. The review by the Bureau of Legal Services is intended only to supplement the current method by which the investigative reports are submitted to the IRC.

F. Investigative Review Committee Hearing/Recommendation

1. The IRC chairperson shall be responsible for scheduling the committee hearing, notifying committee members and, if appropriate, notifying any witnesses of meeting arrangements. Meetings shall be scheduled in order to meet established time frames.
2. The committee shall review and assess the information prepared and presented by the investigator.
3. The committee may call witnesses or request further investigation, if deemed necessary.
4. The committee shall consider all evidence and shall recommend whether, in their opinion, the allegation should be substantiated, should not be substantiated, or the allegation is unable to be verified. This recommendation shall be based on a preponderance of evidence. The committee shall make a recommendation of whether or not an incident of abuse occurred even when the cause and/or accused cannot be determined.
5. The chairperson shall prepare a confidential report which includes:
 - a. a statement of the allegation;
 - b. a summary of the investigative methodology noting an analysis of the evidence;
 - c. the committee's recommendation regarding substantiation, noting any additional concerns; and,

- d. the committee's recommendations regarding corrective action to address the incident and/or any identified systemic deficiencies.
6. The IRC report shall be submitted to the CEO/FA within ten calendar years of the date the full investigative report is received by the committee. Committee members may disagree with the majority decision and may present such disagreement in writing for inclusion in the IRC report. A copy of the report shall be forwarded to the HRC chairperson, the Client Rights Officer and APS.
7. In cases where additional evidence must be gathered and additional time is needed, the CEO/FA (with notice to APS) may grant a single five-day extension. Any other extension must be granted by the Assistant Secretary for the program office and notification must be made to APS.
8. In cases involving allegations against the CEO/FA of a facility, the Assistant Secretary will assume the above-listed functions for the CEO/FA and the LDH Deputy Secretary will assume the functions listed for the Assistant Secretary. If there is an allegation against the CEO/FA of a facility in the Office of Aging and Adult Services, the LDH Deputy Secretary will receive the report and assume the duties of the CEO/FA.

G. Final Action by the CEO/FA

1. The CEO/FA shall receive and evaluate the recommendations of the IRC. He/she may accept the recommendations with or without comment, in which case the recommendations shall constitute the findings of the CEO/FA. Should any part of the IRC recommendations be rejected, written explanations for such rejection shall be supplied. When different from the recommendation of the IRC, the CEO/FA's findings and/proposed corrective action plan shall be outlined and attached to the committee's report.
2. Within five days from the date the report is received by the CEO/FA, his/her findings that differ from the IRC shall be routed back to the IRC chairperson with a written explanation. Copies shall be provided to the HRC chairperson, Client Rights Officer, and APS.

3. The CEO/FA shall assure the accused facility staff are notified of the findings and, shall take prompt and appropriate disciplinary action when an allegation of abuse or neglect is confirmed.
4. Within 30 calendar days of the date the incident was reported, the CEO/FA shall ensure that a copy of the complete report has been placed in the mail to APS and to any other entity as mandated by law or LDH requirements. This report shall include the IRC's report; written statements of witnesses or tape transcriptions; the CEO/FA's decision with written comments, if any; disciplinary action taken in cases of substantiated allegations of abuse and neglect; and a completed injury form when an injury is involved (if injury report was not submitted earlier). In cases where external reports are not available within 30 days, all available information regarding the incident is to be supplied to APS within the above-listed time line. Copies of external reports shall be submitted to APS as soon as they are received by the facility.
5. The CEO/FA or designee shall be responsible for assuring the complainant and the client, if different, and family member or other party who was notified of the incident, is informed of the case determination and appeal process.
6. The CEO/FA or designee shall develop and forward the corrective action plan to appropriate facility employee who has responsibility for its implementation and monitoring.
7. The CEO/FA or designee shall make appropriate reports of confirmed findings of abuse or neglect or ethical issues regarding licensed professionals to the respective boards of examiners.
8. In cases involving allegations against the CEO/FA, the Assistant Secretary will assume the functions listed above.
9. Internal policies of program offices may provide for review of the CEO/FA decision by the Assistant Secretary or designee. However, such review shall not affect the timelines specified in this policy.

H. Record-keeping and Documentation of Client Abuse and Neglect Investigations

As long as the client is a resident of the facility and for a period of three years from date of client's discharge, all original documents, evidence and investigative reports related to an allegation shall be maintained on file in a secure place by the

designated facility staff and by APS. Cases in litigation or where charges are pending shall be maintained in accordance with legal mandates to the particular situations involved.

I. Review and Closure by APS

1. APS shall review and assess all completed reports in order to monitor for:
 - a. clear and thorough documentation of findings;
 - b. conclusions based on a preponderance of the credible evidence; and,
 - c. implementation of recommended corrective actions to resolve identified problems.
2. APS may request:
 - a. any missing documentation required by LDH policy and procedures;
 - b. clarification of facts and findings where necessary;
 - c. additional information be gathered and submitted; and,
 - d. review of the decision should the facility fail to provide sufficient evidence, documentation, or clarification of findings.

APS shall consider the investigation completed and closed when the criteria specified in Section XVI.I.1. a-d. of these procedures are met.

APS shall collect data, analyze for trends and patterns and supply periodic reports and recommendations to address identified problems to the facilities, program offices, and Assistant Secretaries.

J. Appeal of CEO/FA's Findings

1. Any individual making an allegation of client abuse or neglect, or a victim or legally responsible representative who is not satisfied with the CEO/FA's findings may file a request for reconsideration of the finding to APS. The request may be verbal or in writing and must be made within 15 calendar days from the date of notification of the findings or from the postmarked date when the findings were placed in the mail.

2. APS shall review the investigative findings, conduct any additional investigation that may be warranted and respond to the complainant within 15 calendar days. A copy of the APS decision shall be supplied to the CEO/FA and Assistant Secretary.
3. If the complainant/client does not accept the decision of APS, then an appeal may be made within 15 calendar days to the LDH Secretary or designee. The Secretary shall render his/her findings to the client/complainant within 15 calendar days of receipt of the appeal with copies to the CEO/FA, the Assistant Secretary and APS. The Secretary's decision shall be the final step in the LDH appeal process.
4. The appropriate Assistant Secretary shall assume the functions of the CEO/FA when allegations are made against the CEO/FA. For facilities in the Office of Aging and Adult Services, the LDH Deputy Secretary shall assume the functions of the accused CEO/FA.
5. Each facility shall establish procedures to appropriately notify the IRC chairperson, HRC chairperson, and Client Rights Officer of decisions rendered at each step of the appeals process.

K. External Investigation

1. Investigation conducted by other agencies shall not relieve APS of the responsibility to conduct an investigation except when it conflicts with the jurisdiction of a statutorily mandated authority.
2. APS may enter into agreements with external agencies to allow for joint investigations.
3. When available to APS and/or the facility, the results of the external investigations, including evidence such as autopsy reports, physical evidence, etc. shall be provided to the IRC for use in their deliberations.

XVII. ADULT PROTECTIVE SERVICES

With respect to this policy, APS shall perform the following functions. This in no way alters the authority of other entities within LDH who are mandated by statute and regulation to carry out similar functions.

- A. Develop, implement, and monitor policy for the protection of client rights, including review of program office and facility policies enacted pursuant to the policy.
- B. Receive and investigate reports of incidents of abuse and neglect as described in Sections IX and XVI of this policy and notify the program Assistant Secretary/designee of the highly sensitive situation.
- C. Provide or grant approval for training to an APS-trained trainer to provide the LDH approved Abuse/Neglect Investigator instruction to all investigators, maintain a master list of trained investigators, and issue certificates to trainees to verify that training has been satisfactorily completed;
- D. Receive, review, and evaluate abuse and neglect findings as described in Section XVI of this policy to determine if they are complete and in accordance with policy. If not deemed complete, APS shall secure or direct that additional, necessary data be secured;
- E. Monitor statistical data in client abuse and neglect and provide program offices and facilities with statistical reports and identified trends/patterns;
- F. When abuse or neglect is substantiated against a licensed professional, the Facility CEO/RA will make a report to the appropriate board of examiners. APS will confirm that the report has been made;
- G. Provide necessary technical, investigative, and training assistance to facilities, program offices, and bureaus;
- H. Receive, research and respond to an appeal of findings as directed by Section XVI.J of this policy; and,
- I. Coordinate with the appropriate program office designee to address identified problem areas.

XVIII. DISSEMINATION

A. This policy shall be made available to:

1. All affected LDH bureaus, divisions, and program offices;
2. All staff of LDH facilities and program, including staff providing services operated by affiliates; and,
3. Persons served by LDH 24-hour public facilities, subsidiaries, and affiliates or, where applicable, the legally responsible or designated representative(s) of the individuals.
 - a. Clear written and verbal information outlining the requirements of this policy along with the facility/program's procedures of implementation shall be provided:
 - 1) to clients and/or their representatives upon admission to a program;
 - 2) to clients and/or their representatives as needed or requested; and,
 - 3) as mandated by licensing, certification, and/or accreditation agencies.
 - b. Verification of receipt of the above-listed information by the client (or client representative) shall be maintained in the client's record.

Any other person requesting a copy (A fee may be assessed for the copy in accordance with LDH Policy No. 4700 83 and LA R.S. 29:241).

- B. Copies of this policy shall be maintained in the admission and residential areas of 24-hour facilities and subsidiaries and any other area frequented by clients.
- C. Clients and other interested individuals shall have access to reporting forms and may file complaints directly to a facility's Client Rights Officer or IRC chairperson, a facility/program manager, or APS.
- D. Clients of 24-hour facilities shall have reasonable access to telephones for private use in order to make verbal reports of alleged abuse or neglect. Telephone numbers for the facility Client Rights Officer, the Advocacy Center (AC),

CEO/FA, IRC chairperson and APS and any other number required by law or regulation shall be posted and available. The hotline telephone numbers for the facility (if available); APS and the AC shall be accessible to all clients.

APS Toll-free # 1-800-898-4910

Advocacy Center Toll-free # 1-800-960-7705

XIX. DISCIPLINARY ACTIONS

Violations of this policy may result in disciplinary action up to and including dismissal.

XX. REVISION HISTORY

Date	Revision
December 13, 2003	Policy created
June 30, 2011	Policy revised
June 06, 2016	Policy revised

APPENDICES A, B, C is herein included in this Policy

See the following pages

APPENDIX A

I. Definitions from La R.S. 15.1503 (Adult Protective Services Law) and References

“Abuse” is the infliction of physical or mental injury on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds, or other things of value, to such extent that his health, self-determination, or emotional well-being is endangered.

“Exploitation” is the illegal or improper use or management of an aged person’s or disabled adult’s funds, assets or property, or the use of an aged person’s or disabled adult’s power of attorney or guardianship for one’s own profit or advantage.

“Extortion” is the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority.

“Neglect” is the failure, by a caregiver responsible for an adult’s care of by other parties, to provide the proper and necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be neglected or abused.

“Self-Neglect” is the failure, either by the adult’s action or inaction, to provide the proper or necessary support or medical, surgical, or any other care necessary for his own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

“Abandonment” is the desertion or willful forsaking of an adult by anyone having care of custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

“Isolation” includes:

(a) Intentional acts committed for the purpose of preventing, and which do serve to prevent, an adult from having contact with family, friends, or concerned persons. This shall not be constructed to affect a legal restraining order.

(b) Intentional acts committed to prevent an adult from receiving his mail or telephone calls.

(c) Intentional acts of physical or chemical restraint of an adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons.

(d) Intentional acts which restrict, place, or confine an adult into a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons. However, medical isolation prescribed by a licensed physician caring for the adult shall not be included in this definition.

“Sexual Abuse” means abuse of an adult, as defined herein, when the following occurs:

- (a) The adult is forced, threatened, or coerced by a person into sexual activity or contact
- (b) The adult is involuntarily exposed to sexually explicit material, language, or contact.
- (c) The adult lacks capacity to consent, & a person engages in sexual activity or contact with that adult.

Definitions from L.A.R.S. 40.2009.20 (Licensing law for health care providers)

“Abuse” is the infliction of physical or mental injury of the causing of the deterioration of a consumer by means including but not limited to sexual abuse, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered.

“Neglect” is the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a consumer’s well-being.

III. Definitions from 45 CFR 1386.19

(State System for Protection and Advocacy of the Rights of Individuals with Developmental Disabilities)

“Abuse” means any act or failure to act which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an individual with developmental disabilities, and includes such acts as: Verbal, nonverbal, mental and emotional harassment; rape or sexual assault; striking; the use of excessive force when placing such an individual in bodily restraints; the use of bodily or chemical restraints which is not in

compliance with Federal and State laws and regulations or any other practice which is likely to cause immediate physical or psychological harm or result in long-term harm if such practices continue.

“Neglect” means a negligent act or omission by an individual responsible for providing treatment or habilitation services which caused or may have caused injury or death to an individual with developmental disabilities or which placed an individual with developmental disabilities at risk of injury or death, and includes acts or omissions such as failure to: establish or carry out an appropriate individual program plan or treatment plan (including a discharge plan); provide adequate nutrition, clothing or health care to an individual with developmental disabilities; provide a safe environment which also includes failure to maintain adequate numbers of trained staff.

The level of evidence cited in this Federal Code for the Advocacy Center to determine Abuse or Neglect is as follows:

“Probable cause”: is the reasonable ground for belief that an individual with developmental disabilities has been, or may be, subject to abuse and/or neglect. The individual making such determination may base the decision on reasonable inferences drawn for his or her experience or training regarding similar incidents, conditions, or problems that are associated with abuse or neglect.

IV. Definitions from 42 CFR 51.2 (Protection and Advocacy for Mentally Ill)

“Abuse” means any act or failure to act by an employee of a facility rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an individual with mental illness, and includes but is not limited to acts such as: rape or sexual assault; striking; the use of excessive force when placing an individual with mental illness in bodily restraints; the use of bodily or chemical restraints which is not in compliance with Federal and State laws and regulations; verbal, nonverbal, mental and emotional harassment; and any other practice which is likely to cause immediate physical or psychological harm or result in long-term harm if such practices continue.

“Neglect” means a negligent act or omission by an individual responsible for providing services in a facility rendering care or treatment which caused or may have

caused injury or death to an individual with mental illness or which placed an individual with mental illness at risk of injury or death, an includes, but is not limited to, acts or omissions such as failure to establish or carry out an appropriate individual program or treatment plan (including a discharge plan); provide adequate nutrition, clothing, or health care; and the failure to provide a safe environment which also includes failure to maintain adequate numbers of appropriately trained staff.

V. Definitions from 42 CFR 488.301. (Long Term Care facility regulations)

This code Federal Regulations refers to Nursing Facilities (NFs) and Skilled Nursing Facilities (SNFs)

“Abuse” means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.

“Neglect” means failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

VI. Definitions from 42 CFR 483.420 – This Code applies to ICF/DD settings

Definitions found in section (5) (a) of this Code: are as follows:

“Abuse” refers to ill-treatment, violation, revilement, malignment, exploitation, and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator.

“Physical Abuse” refers to any physical motion or action (e.g., hitting, slapping, punching, kicking, pinching, etc.) by which bodily harm or trauma occurs. It includes use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment. Observe individuals to see if they are bruised, cut, burned (cigarettes, etc.)

“Verbal Abuse” refers to any use of oral, written, or gestured language by which abuse occurs. This includes pejorative and derogatory terms to describe persons with disabilities.

“Psychological abuse” includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion, intimidation, whereby individuals suffer psychological harm or trauma.

VII. Definitions from La. Children’s Code – Article 603

- (1) “Abuse” means any one of the following acts which seriously endanger the physical, mental, or emotional health, and safety of the child;
 - (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
 - (b) The exploitation or overwork of a child by a parent or any other person.
- (c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child’s sexual involvement with any other person or of the child’s involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.
- (d) “Neglect” means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child’s physical, mental, or emotional health and safety is substantially threatened or impaired. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child’s health or welfare.

APPENDIX B

Responding to Abuse/Neglect/Exploitation

Abuse Occurs In:	Victim Age is:	Report to:	Investigation by:	Protect/Arrange Services:
Community (non-licensed) & accused is not staff	18-and older	APS	APS	APS
Community (accused is provider staff/private pay)	All Ages	Licensing Agency (HSS) if licensed	Internal by provider (HSS)	Provider & investigating agency
Private Facility /licensed by HSS (e.g.,ICF/DD, NF)	All Ages	HSS	Internal by provider & HSS	Provider/ *HSS
Home and Community Based Services (Waiver/LTPCS) Facility/licensed by HSS Community (accused is provider staff)	18-and older	APS	Internal by provider & HSS	Provider/ *HSS
	18 or younger	HSS/DCFS	HSS/DCFS	As needed
Private facility /licensed by DCFS – Child Day Care & Residential Care/Spec Population	18 or younger	DCFS	Internal by provider DCFS	DCFS
LDH non-residential programs/services	All Ages	Licensing agency	Licensing agency HSS if	Internal per LDH

(accused is staff)		HSS	licensed program & APS	Policy
--------------------	--	-----	---------------------------	--------

* HSS will report situation to appropriate authority

NOTES: 1. DCFS has jurisdiction in any setting when the alleged victim is < 18 years of age and the alleged perpetrator is considered a caregiver (family or paid). Such incidents shall be reported to the local DCFS office, which will investigate, protect, and monitor. This jurisdiction is in addition to that of any appropriate licensing or regulatory agency. 2. Criminal Investigation and prosecution is handled by local law enforcement and district attorneys in all settings except as noted here. The Attorney General's Medicaid Fraud Control Unit has investigative authority in NF's, ICF/DD's, and in board & care facilities that they may prosecute with the consent of the District Attorney. Per LDH Policy, facility/program managers should notify local law enforcement when there is reason to believe a crime has been committed.

Abbreviations:

APS – LDH /OAAS Adult Protective Services

HSS – LDH- Bureau of Health Services Financing, Health Standards Section

DCFS – Department of Children and Family Services

APPENDIX C

Time Frames for Reporting, Investigation, and Review of Abuse/Neglect Allegations in 24-hour facilities

Required Time Frame	Required Reporting / Investigative Event
Immediately (in no case later than 1 hour after incident discovered)	Verbal Report to Facility or Program Manager or designee Protect client, remove accused, and preserve evidence Notify APS or designated investigator Notify External Agencies *DCFS *HSS *DSS Licensing * Law Enforcement *Notify HRC chairperson
No later than 2 hours after incident discovered	Written incident report to facility or program manager or designee
Within 3 hours	Begin Investigation
Within 24 hours	Written (online) Report to *HSS, APS Notify Family if victim is resident of LDH Facility
Within 5 Working Days	Preliminary Report to *HSS
Within 10 Working Days	Investigative Report to IRC, HRC,CEO, CRO, APS
Within 20 Calendar Days	IRC report to CEO/FA (24-hour facilities)
Within 25 Calendar Days	CEO Decision Notify IRC &APS
Within 30 Calendar Days	Notify Employee/Complainant Initiate corrective action Full report postmarked to APS and *HSS

*Where Applicable